

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 427

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ben D. Altamirano

AN ACT

RELATING TO UNCLAIMED PROPERTY; AMENDING SECTIONS OF THE NMSA 1978 TO EXCLUDE CHILD SUPPORT PAYMENTS FROM THE DEFINITION OF PROPERTY UNDER THE UNIFORM UNCLAIMED PROPERTY ACT (1995).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-8A-1 NMSA 1978 (being Laws 1997, Chapter 25, Section 1) is amended to read:

"7-8A-1. DEFINITIONS. -- As used in the Uniform Unclaimed Property Act (1995):

(1) "administrator" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department who exercises authority lawfully delegated to him by the secretary;

(2) "apparent owner" means a person whose name appears on the records of a holder as the person entitled to

underscored material = new
[bracketed material] = delete

1 property held, issued, or owing by the holder;

2 (3) "business association" means a corporation,
3 joint stock company, investment company, partnership,
4 unincorporated association, joint venture, limited liability
5 company, business trust, trust company, land bank, safe deposit
6 company, safekeeping depository, financial organization,
7 insurance company, mutual fund, utility, or other business
8 entity consisting of one or more persons, whether or not for
9 profit;

10 (4) "domicile" means the state of incorporation of
11 a corporation and the state of the principal place of business
12 of a holder other than a corporation;

13 (5) "financial organization" means a savings and
14 loan association, building and loan association, savings bank,
15 industrial bank, bank, banking organization or credit union;

16 (6) "holder" means a person obligated to hold for
17 the account of, or deliver or pay to, the owner property that
18 is subject to the Uniform Unclaimed Property Act (1995);

19 (7) "insurance company" means an association,
20 corporation or fraternal or mutual benefit organization,
21 whether or not for profit, engaged in the business of providing
22 life endowments, annuities or insurance, including accident,
23 burial, casualty, credit life, contract performance, dental,
24 disability, fidelity, fire, health, hospitalization, illness,
25 life, malpractice, marine, mortgage, surety, wage protection

. 144449. 1

underscored material = new
[bracketed material] = delete

1 and workers' compensation insurance;

2 (8) "mineral" means gas; oil; coal; other gaseous,
3 liquid and solid hydrocarbons; oil shale; cement material; sand
4 and gravel; road material; building stone; chemical raw
5 material; gemstone; fissionable and nonfissionable ores;
6 colloidal and other clay; steam and other geothermal resource;
7 or any other substance defined as a mineral by the law of New
8 Mexico;

9 (9) "mineral proceeds" means amounts payable for
10 the extraction, production or sale of minerals, or, upon the
11 abandonment of those payments, all payments that become payable
12 thereafter. The term includes amounts payable:

13 (i) for the acquisition and retention of a
14 mineral lease, including bonuses, royalties, compensatory
15 royalties, shut-in royalties, minimum royalties and delay
16 rentals;

17 (ii) for the extraction, production or sale of
18 minerals, including net revenue interests, royalties,
19 overriding royalties, extraction payments and production
20 payments; and

21 (iii) under an agreement or option, including a
22 joint operating agreement, unit agreement, pooling agreement
23 and farm-out agreement;

24 (10) "money order" includes an express money order
25 and a personal money order, on which the remitter is the

underscored material = new
[bracketed material] = delete

1 purchaser. The term does not include a bank money order or any
2 other instrument sold by a financial organization if the seller
3 has obtained the name and address of the payee;

4 (11) "owner" means a person who has a legal or
5 equitable interest in property subject to the Uniform Unclaimed
6 Property Act (1995) or the person's legal representative. The
7 term includes a depositor in the case of a deposit, a
8 beneficiary in the case of a trust other than a deposit in
9 trust and a creditor, claimant or payee in the case of other
10 property;

11 (12) "person" means an individual; business
12 association; financial organization; estate; trust; government;
13 governmental subdivision, agency, or instrumentality; or any
14 other legal or commercial entity;

15 (13) "property" means tangible property described
16 in Section ~~[3 of the Uniform Unclaimed Property Act (1995)]~~
17 7-8A-3 NMSA 1978 or a fixed and certain interest in intangible
18 property that is held, issued, or owed in the course of a
19 holder's business, or by a government, governmental
20 subdivision, agency, or instrumentality, and all income or
21 increments therefrom, but excludes child, spousal or medical
22 support received by the child support enforcement division of
23 the human services department, the New Mexico IV-D agency. The
24 term includes property that is referred to as or evidenced by:

25 (i) money, a check, draft, deposit, interest or

1 dividend;

2 (ii) credit balance, customer's overpayment,
3 gift certificate, security deposit, refund, credit memorandum,
4 unpaid wage, unused ticket, mineral proceeds or unidentified
5 remittance;

6 (iii) stock or other evidence of ownership of
7 an interest in a business association or financial
8 organization;

9 (iv) a bond, debenture, note or other evidence
10 of indebtedness;

11 (v) money deposited to redeem stocks, bonds,
12 coupons or other securities or to make distributions;

13 (vi) an amount due and payable under the terms
14 of an annuity or insurance policy, including policies providing
15 life insurance, property and casualty insurance, workers'
16 compensation insurance or health and disability insurance; and

17 (vii) an amount distributable from a trust or
18 custodial fund established under a plan to provide health,
19 welfare, pension, vacation, severance, retirement, death, stock
20 purchase, profit sharing, employee savings, supplemental
21 unemployment insurance or similar benefits;

22 (14) "record" means information that is inscribed
23 on a tangible medium or that is stored in an electronic or
24 other medium and is retrievable in perceivable form;

25 (15) "state" means a state of the United States,

underscored material = new
[bracketed material] = delete

1 the District of Columbia, the commonwealth of Puerto Rico or
2 any territory or insular possession subject to the jurisdiction
3 of the United States; and

4 (16) "utility" means a person who owns or operates
5 for public use any plant, equipment, real property, franchise,
6 or license for the transmission of communications or the
7 production, storage, transmission, sale, delivery or furnishing
8 of electricity, water, steam or gas. "

9 Section 2. Section 27-2-27 NMSA 1978 (being Laws 1981,
10 Chapter 90, Section 1, as amended) is amended to read:

11 "27-2-27. SINGLE STATE AGENCY--POWERS AND DUTIES. --

12 A. The department is designated as the single state
13 agency for the enforcement of child and spousal support
14 obligations pursuant to Title IV D of the federal act with the
15 following duties and powers:

16 [~~A.~~] (1) establish the paternity of a child in
17 the case of the child born out of wedlock with respect to whom
18 an assignment of support rights has been executed in favor of
19 the department;

20 [~~B.~~] (2) establish an order of support for
21 children receiving aid to families with dependent children and,
22 at the option of the department, for the spouse or former
23 spouse with whom such children are living, but only if a
24 support obligation has been established with respect to such
25 spouse or former spouse, for whom no order of support

. 144449. 1

underscored material = new
[bracketed material] = delete

1 [presently] currently exists and seek modification, based upon
2 the noncustodial parent's ability to pay, of existing orders in
3 which the support order is inadequate to properly care for the
4 child and the spouse or former spouse with whom the child is
5 living;

6 [E.-] (3) enforce as the real party in interest
7 any existing order for the support of children who are
8 receiving aid to families with dependent children or of the
9 spouse or former spouse with whom such children are living; and

10 [D.-] (4) provide services to non-aid families
11 with dependent children in the establishment and enforcement of
12 paternity and child support obligations, including locating the
13 absent parent. For these services, the department is
14 authorized to establish and collect fees, costs and charges
15 permitted or required by federal law or by regulations adopted
16 pursuant to that federal law, including to adopt regulations
17 for the disposition of unclaimed payments.

18 [E.-] B. In all cases handled by the department
19 pursuant to the provisions of this section, the child support
20 enforcement division of the department and any attorney
21 employed by the division represent the department in
22 establishing, modifying and enforcing support obligations. "